

1 JOAN W. CAVANAGH
Assistant Deputy Director, Bar No. 056708
2 JAMES F. NOVELLO
Assistant Chief Counsel, Bar No. 172964
3 BRENDA A. RAY
Senior Counsel, Bar No. 164564
4 CALIFORNIA DEPARTMENT OF
MANAGED HEALTH CARE
5 980 Ninth Street, Suite 500
Sacramento, CA 95814-7243
6 Telephone: (916) 323-0435

7 Attorneys for Complainant

8 BEFORE THE DEPARTMENT OF MANAGED HEALTH CARE
9 OF THE STATE OF CALIFORNIA

10 In the Matter of the Accusation Against: } DMHC Enforcement No. 02-019
11 LIBERTY DENTAL PLAN OF }
CALIFORNIA, INC., }
12 }
13 Respondent. } ACCUSATION
(Health & Saf. Code, § 1367(h)(3))

14
15
16 I.

17 INTRODUCTION

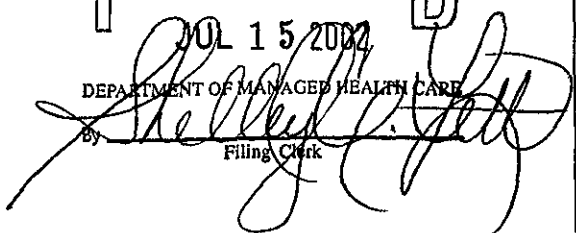
18 1. This case is brought pursuant to the provisions of the Knox-Keene Health Care
19 Service Plan Act of 1975, as amended (the Knox-Keene Act) (Health and Safety Code,
20 section 1340 et seq.), based on the failure of Liberty Dental Plan of California, Inc.,
21 (Respondent) to file with the Department of Managed Health Care (the Department)
22 statistical information relating to its provider dispute resolution mechanism. Respondent's
23 conduct in failing to file the information was in violation of Health and Safety Code, section
24 1367, subdivision (h)(3), and constitutes cause for discipline by the Director of the
25 Department of Managed Health Care pursuant to Health and Safety Code, section 1386,
26 subdivisions (a) and (b)(6).

27 ///

28 ///

FILED
JUL 15 2022

DEPARTMENT OF MANAGED HEALTH CARE

By  Filing Clerk

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

II.

PARTIES

2. Joan W. Cavanagh (Complainant) is the Assistant Deputy Director of the Office of Enforcement for the Department of Managed Health Care. Complainant brings this accusation solely in her official capacity as Assistant Deputy Director of the Office of Enforcement for the Department of Managed Health Care.

3. At all times pertinent to the allegations herein, Respondent has been a specialized health care service plan as defined by Health and Safety Code section 1345, subdivision (f), and is subject to the regulatory provisions of the Knox-Keene Act (Health & Safety Code section 1340 et. seq.). Respondent is the holder of health care service plan license number 933-0052, issued on August 3, 1978, by the Commissioner of the Department of Corporations, predecessor to the Director of the Department of Managed Health Care of the State of California.¹ Respondent's principal corporate office is located at 3636 Birch Street, Suite 250, Newport Beach, California 92660.

III.

JURISDICTION

4. This Accusation is brought before the Director of the Department of Managed Health Care under the authority of the following sections of the Health and Safety Code:

- a) Section 1340 et seq., known as the Knox-Keene Act, was enacted in 1975 to provide state regulation of health care service plans. The Knox-Keene Act was amended in 1999 to create the Department of Managed Care, within California's

¹ At the time Respondent applied for, and was granted, a license to become a health care service plan, the Department of Corporations was the regulating entity issuing licenses and enforcing the Knox-Keene Act. Effective July 1, 2000, the Department of Managed Health Care succeeded to all duties, powers, responsibilities, and jurisdiction of the Department of Corporations as they related to Corporations' Health Plan Program, Health Care Service Plans, and the Health Care Service Plan Business. (Health & Saf. Code § 1341.9).

1 Business, Transportation, and Housing Agency.² The Department is charged with the
2 execution of the laws of the state relating to health care service plans. The statutory
3 mission of the Department, as set forth in section 1341, subdivision (a), is to ensure
4 that health care service plans provide enrollees with access to quality health care
5 services and to protect and promote the interests of enrollees.

6 b) Section 1367, subdivision (h)(3) provides:

7 On and after January 1, 2002, each health care service plan shall annual submit
8 a report to the department regarding its dispute resolution mechanism. The
9 report shall include information on the number of providers who utilized the
10 dispute resolution mechanism and a summary of the disposition of those
11 disputes.

12 c) Section 1386, subdivision (a), authorizes the Director of the Department
13 to take disciplinary action against a health care service plan, including, but not limited
14 to, the assessment of administrative penalties against the plan, if the Director
15 determines, after appropriate notice and an opportunity for a hearing, that the plan has
16 committed an act or omission that constitutes grounds for disciplinary action.

17 d) Section 1386, subdivision (b)(6), sets forth the acts or omissions that
18 constitute grounds for disciplinary action by the Director, including when the plan
19 "...has violated or attempted to violate, or conspired to violate, directly or indirectly,
20 or assisted in or abetted a violation or conspiracy to violate any provision of [the
21 Knox-Keene Act]...."

22 ///

23 ///

24 ///

25 ///

26
27 ² Effective January 1, 2001, the Department of Managed Care has been renamed the
28 Department of Managed Health Care. Pursuant to a year 2000 legislative order, all references in the
Knox-Keene Act to the Department of Managed Care are to change, reflecting the new department's
title, the Department of Managed Health Care. (Stats. 2000, Chap. 587 (AB 2903) § 100(a).)

1 IV.

2 FACTUAL ALLEGATIONS

3 5. On December 13, 2001, the Department sent a letter to all licensed health care
4 service plans, including Respondent, reminding them of the requirements of Health and
5 Safety Code, section 1367, subdivision (h)(3), and providing a template to be used in
6 reporting the required information. The letter stated that the report submitted by Respondent
7 to the Department was due by January 1, 2002, and "should include information for the first
8 three (3) quarters and available information for the fourth quarter of the 2001 calendar year."
9 The Department also provided a contact person and phone number to call if the health care
10 service plan had any questions or concerns.

11 6. Respondent failed to respond to the Department's December 13, 2001, letter or
12 submit the required information by January 1, 2002.

13 7. On February 1, 2002, the Department sent a second letter to Respondent
14 providing Respondent with a copy of the December 13, 2001, letter with the accompanying
15 template and again requested that Respondent file the required report.

16 8. Respondent again failed to file the required information with the Department.

17 9. After receiving a letter from the Department dated April 10, 2002, warning that
18 enforcement action would be taken due to the failure to file the statutorily required report,
19 Respondent finally submitted the required information to the Department on April 18, 2002.

20 10. Based upon all of the above, Respondent is subject to disciplinary action and
21 the assessment of an administrative penalty.

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 V.

2 **FIRST CAUSE FOR DISCIPLINE**

3 **FAILURE TO FILE INFORMATION REGARDING**
4 **RESPONDENT'S PROVIDER DISPUTE RESOLUTION**
5 **MECHANISM**

6 11. Complainant incorporates by reference paragraphs 1-10, as stated above, as
7 though fully set forth herein.

8 12. Respondent is subject to the assessment of an administrative penalty for
9 a violation of Health and Safety Code, section 1367, subdivision (h)(3), in that
10 Respondent failed to file with the Department by January 1, 2002, a report regarding
11 its dispute resolution mechanism, including information on the number of providers
12 who utilized the dispute resolution mechanism and a summary of the disposition of
13 those disputes.

14 VI.

15 **DISCIPLINARY CONSIDERATIONS**

16 13. The Director of the Department has the discretion, pursuant to the provisions
17 of the Health and Safety Code, section 1386, subdivision (a), to assess administrative
18 penalties against, as well as to suspend or revoke the license of, a health care service plan for
19 violations of the Knox-Keene Act. Complainant has considered the following factors in
20 seeking an assessment of an administrative penalty of \$2,500 against Respondent in this
21 action:

22 a. Respondent failed to file the required report even after twice being reminded by
23 the Department of its obligation to do so.

24 b. Respondent finally filed the information on April 18, 2002.

25 ///

26 ///

27 ///

28 ///

VII.

PRAYER

WHEREFORE, Complainant prays that a decision be rendered by the Director of the Department of Managed Health Care assessing an administrative penalty in the amount of \$2,500 against Respondent, Liberty Dental Plan of California, Inc., and ordering such other and further relief as the Director deems proper.

Dated: July 15, 2002

JOAN W. CAVANAGH
Assistant Deputy Director
Department of Managed Health Care

By:

Brenda A. Ray
BRENDA A. RAY
Senior Counsel